

104TH CONGRESS
2D SESSION

H. R. 4233

To provide for appropriate implementation of the Metric Conversion Act of 1975 in Federal construction projects, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 27, 1996

Mr. COX of California (for himself, Mr. WALKER, Mrs. MORELLA, and Mr. HASTERT) introduced the following bill; which was referred to the Committee on Science

A BILL

To provide for appropriate implementation of the Metric Conversion Act of 1975 in Federal construction projects, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Savings in Construc-
5 tion Act of 1996”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) The Metric Conversion Act of 1975 was en-
9 acted in order to set forth the policy of the United

1 States to convert to the metric system. Section 3 of
2 that Act requires that each Federal agency use the
3 metric system of measurements in its procurement,
4 grants, and other business-related activities, unless
5 that use is likely to cause significant cost or loss of
6 markets to United States firms, such as when for-
7 eign competitors are producing competing products
8 in non-metric units.

9 (2) In accordance with that Act and Executive
10 Order 12770, of July 25, 1991, Federal agencies in-
11 creasingly construct new Federal buildings in round
12 metric dimensions. As a result, companies that wish
13 to bid on Federal construction projects increasingly
14 are asked to supply materials or products in round
15 metric dimensions.

16 (3) While the Metric Conversion Act of 1975
17 currently provides an exemption to metric usage
18 when impractical or when such usage will cause eco-
19 nomic inefficiencies, amendments are warranted to
20 ensure that the use of specific metric components in
21 metric construction projects do not increase the cost
22 of Federal buildings to the taxpayers.

23 **SEC. 3. DEFINITIONS.**

24 Section 4 of the Metric Conversion Act of 1975 (15
25 U.S.C. 205c) is amended—

1 (1) by striking “and” at the end of paragraph
2 (3);

3 (2) by striking “Commerce.” in paragraph (4)
4 and inserting “Commerce;”; and

5 (3) by inserting after paragraph (4) the follow-
6 ing:

7 “(5) ‘full and open competition’ has the same
8 meaning as defined in section 403(6) of title 41,
9 United States Code;

10 “(6) ‘total installed price’ means the price of
11 purchasing a product or material, trimming or oth-
12 erwise altering some or all of that product or mate-
13 rial, if necessary to fit with other building compo-
14 nents, and then installing that product or material
15 into a Federal facility;

16 “(7) ‘hard-metric’ means measurement, design,
17 and manufacture using the metric system of meas-
18 urement, but does not include measurement, design,
19 and manufacture using English system measurement
20 units which are subsequently reexpressed in the met-
21 ric system of measurement;

22 “(8) ‘cost or pricing data or price analysis’ has
23 the meaning given such terms in section 304A of the
24 Federal Property and Administrative Services Act of
25 1949 (41 U.S.C. 254b); and

1 “(9) ‘Federal facility’ means any public building
2 (as defined under section 13 of the Public Buildings
3 Act of 1959 (40 U.S.C. 612) and shall include any
4 Federal building or construction project—

5 “(A) on lands in the public domain;

6 “(B) on lands used in connection with
7 Federal programs for agriculture research,
8 recreation, and conservation programs;

9 “(C) on or used in connection with river,
10 harbor, flood control, reclamation, or power
11 projects;

12 “(D) on or used in connection with hous-
13 ing and residential projects;

14 “(E) on military installations (including
15 any fort, camp, post, naval training station, air-
16 field, proving ground, military supply depot,
17 military school, or any similar facility of the
18 Department of Defense);

19 “(F) on installations of the Department of
20 Veteran Affairs used for hospital or domiciliary
21 purposes; or

22 “(G) on lands used in connection with
23 Federal prisons,

24 but does not include (i) any Federal Building or con-
25 struction project the exclusion of which the Presi-

1 dent deems to be justified in the public interest, or
 2 (ii) any construction project or building owned or
 3 controlled by a State government, local government,
 4 Indian tribe, or any private entity.”.

5 **SEC. 4. IMPLEMENTATION IN ACQUISITION OF FEDERAL**
 6 **FACILITIES.**

7 (a) The Metric Conversion Act of 1975 (15 U.S.C.
 8 205 et seq.) is amended by inserting after section 13 the
 9 following new section:

10 **“SEC. 14. IMPLEMENTATION IN ACQUISITION OF CON-**
 11 **STRUCTION SERVICES AND MATERIALS FOR**
 12 **FEDERAL FACILITIES.**

13 “(a) IN GENERAL.—Construction services and mate-
 14 rials for Federal facilities shall be procured in accordance
 15 with the policies and procedures set forth in chapter 137
 16 of title 10, United States Code, section 2377 of title 10,
 17 United States Code, title III of the Federal Property and
 18 Administrative Services Act of 1949 (41 U.S.C. 251 et
 19 seq.), and section 3(2) of this Act. Determination of a de-
 20 sign method shall be based upon preliminary market re-
 21 search as required under section 2377(c) of title 10, Unit-
 22 ed States Code, and section 314B(c) of the Federal Prop-
 23 erty and Administrative Services Act of 1949 (41 U.S.C.
 24 264b(c)). If the requirements of this Act conflict with the
 25 provisions of section 2377 of title 10, United States Code,

1 or section 314B of the Federal Property and Administra-
2 tive Services Act of 1949, then the provisions of 2377 or
3 314B shall take precedence.

4 “(b) CONCRETE MASONRY UNITS.—In carrying out
5 the policy set forth in section 3 (with particular emphasis
6 on the policy set forth in paragraph (2) of that section)
7 a Federal agency may require that specifications for the
8 acquisition of structures or systems of concrete masonry
9 be expressed under the metric system of measurement, but
10 may not incorporate specifications, that can only be satis-
11 fied by hard-metric versions of concrete masonry units, in
12 a solicitation for design or construction of a Federal facil-
13 ity within the United States or its territories, or a portion
14 of said Federal facility, unless the head of the agency de-
15 termines in writing that—

16 “(1) hard-metric specifications are necessary in
17 a contract for the repair or replacement of parts of
18 Federal facilities in existence or under construction
19 upon the effective date of the Savings in Construc-
20 tion Act of 1996; or

21 “(2) the following 2 criteria are met:

22 “(A) the application requires hard-metric
23 concrete masonry units to coordinate dimen-
24 sionally into 100 millimeter building modules;
25 and

1 “(B) the total installed price of hard-met-
2 ric concrete masonry units is estimated to be
3 equal to or less than the total installed price of
4 using non-hard-metric concrete masonry units.
5 Total installed price estimates shall be based, to
6 the extent available, on cost or pricing data or
7 price analysis, using actual hard-metric and
8 non-hard-metric offers received for comparable
9 existing projects. The head of the agency shall
10 include in the writing required in this sub-
11 section an explanation of the factors used to de-
12 velop the price estimates.

13 “(c) RECESSED LIGHTING FIXTURES.—In carrying
14 out the policy set forth in section 3 (with particular em-
15 phasis on the policy set forth in paragraph (2) of that
16 section) a Federal agency may require that specifications
17 for the acquisition of structures or systems of recessed
18 lighting fixtures be expressed under the metric system of
19 measurement, but may not incorporate specifications, that
20 can only be satisfied by hard-metric versions of recessed
21 lighting fixtures, in a solicitation for design or construc-
22 tion of a Federal facility within the United States or its
23 territories unless the head of the agency determines in
24 writing that—

1 “(1) the predominant voluntary industry con-
2 sensus standards include the use of hard-metric for
3 the items specified; or

4 “(2) hard-metric specifications are necessary in
5 a contract for the repair or replacement of parts of
6 Federal facilities in existence or under construction
7 upon the effective date of the Savings in Construc-
8 tion Act of 1996; or

9 “(3) the following 2 criteria are met:

10 “(A) the application requires hard-metric
11 recessed lighting fixtures to coordinate dimen-
12 sionally into 100 millimeter building modules;
13 and

14 “(B) the total installed price of hard-met-
15 ric recessed lighting fixtures is estimated to be
16 equal to or less than the total installed price of
17 using non-hard-metric recessed lighting fix-
18 tures. Total installed price estimates shall be
19 based, to the extent available, on cost or pricing
20 data or price analysis, using actual hard-metric
21 and non-hard-metric offers received for com-
22 parable existing projects. The head of the agen-
23 cy shall include in the writing required in this
24 subsection an explanation of the factors used to
25 develop the price estimates.

1 “(d) LIMITATION.—The provisions of subsections (b)
2 and (c) of this section shall not apply to Federal contracts
3 to acquire construction products for the construction of
4 facilities outside of the United States and its territories.

5 “(e) EXPIRATION.—The provisions contained in sub-
6 sections (b) and (c) of this section shall expire 10 years
7 from the effective date of the Savings in Construction Act
8 of 1996.”.

9 **SEC. 5. OMBUDSMAN.**

10 Section 14 of the Metric Conversion Act of 1975, as
11 added by section 4 of this Act, is further amended by add-
12 ing at the end the following new subsection:

13 “(f) AGENCY OMBUDSMAN.—(1) The head of each
14 executive agency that awards construction contracts with-
15 in the United States and its territories shall designate a
16 senior agency official to serve as a construction
17 metrication ombudsman who shall be responsible for re-
18 viewing and responding to complaints from prospective
19 bidders, subcontractors, suppliers, or their designated rep-
20 resentatives related to—

21 “(A) guidance or regulations issued by the
22 agency on the use of the metric system of measure-
23 ment in contracts for the construction of Federal
24 buildings; and

1 “(B) the use of the metric system of measure-
2 ment for services and materials required for incorpo-
3 ration in individual projects to construct Federal
4 buildings.

5 The construction metrication ombudsman shall be inde-
6 pendent of the contracting officer for construction con-
7 tracts.

8 “(2) The ombudsman shall be responsible for ensur-
9 ing that the agency is not implementing the metric system
10 of measurement in a manner that is impractical or is likely
11 to cause significant inefficiencies or loss of markets to
12 United States firms in violation of the policy stated in sec-
13 tion 3(2), or is otherwise inconsistent with guidance issued
14 by the Secretary of Commerce in consultation with the
15 Interagency Council on Metric Policy while ensuring that
16 the goals of the Metric Conversion Act of 1975 are ob-
17 served.

18 “(3) The ombudsman shall respond to each complaint
19 in writing within 60 days and make a recommendation to
20 the head of the executive agency for an appropriate resolu-
21 tion thereto. In such a recommendation, the ombudsman
22 shall consider—

23 “(A) whether the agency is adequately applying
24 the policies and procedures in this section;

1 “(B) whether the availability of hard-metric
2 products and services from United States firms is
3 sufficient to ensure full and open competition; and

4 “(C) the total installed price to the Federal
5 Government.

6 “(4) After the head of the agency has rendered a de-
7 cision regarding a recommendation of the ombudsman, the
8 ombudsman shall be responsible for communicating the
9 decision to all appropriate policy, design, planning, pro-
10 curement, and notifying personnel in the agency. The om-
11 budsman shall conduct appropriate monitoring as required
12 to ensure the decision is implemented, and may submit
13 further recommendations, as needed. The head of the
14 agency’s decision on the ombudsman’s recommendations,
15 and any supporting documentation, shall be provided to
16 affected parties and made available to the public in a time-
17 ly manner.

18 “(5) Nothing in this section shall be construed to su-
19 persede the bid protest process established under sub-
20 chapter V of chapter 35 of title 31, United States Code.”.

21 **SEC. 6. EFFECTIVE DATE AND MISCELLANEOUS PROVI-**
22 **SIONS.**

23 (a) **EFFECTIVE DATE.**—This Act and the amend-
24 ments made by this Act shall take effect 90 days after
25 the date of enactment of this Act.

1 (b) SAVINGS PROVISIONS.—This Act shall not apply
2 to contracts awarded and solicitations issued on or before
3 the effective date of this Act, unless the head of a Federal
4 agency makes a written determination in his or her sole
5 discretion that it would be in the public interest to apply
6 one or more provisions of this Act or its amendments to
7 these existing contracts or solicitations.

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